IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 35875 of 2007(U)

PETITIONER:

TOM SEBASTIAN, S/O.SEBASTIAN,
AGED 46 YEARS, CHUNDAKKATTIL HOUSE,
ATHIRAMPUZHA, KOTTAYAM.

BY ADV. SRI.JOSE TOM C. KANDATHIL

RESPONDENTS:

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1. THE SPECIAL DEPUTY TAHSILDAR (RR),
KSFE LIMITED, M.D., COMMERCIAL CENTRE,
K.K.ROAD, KOTTAYAM.

2. THE BRANCH MANAGER, KSFE EVENING
BRANCH, KOTTAYAM.

3. THE REGISTRAR/FINANCE OFFICER,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI
HILLS, ATHIRAMPUZHA, KOTTAYAM.

4. MINI PANICKAR, W/O.PRATHAP.K.C.,
MADAVANA, CHAKKAMPUZHA POST PALA AND NOW
RESIDING AT MATHUR, AMBALAPUZHA POST,
ALAPPUZHA.

5. PRATHAP.K.C., SELECTION GRADE
ASSISTANT, M.G.UNIVERSITY, KOTTAYAM.

BY ADV. SRI.M.SASINDRAN, SC, K.S.F.E., LTD.
R3 BY SRI.T.A.SHAJI, SC FOR UTY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.35875 of 2007 U

Dated this the 10th day of December, 2007.

JUDGMENT

The petitioner is employed in the M.G.University. The 4th respondent, who is the wife of the 5th respondent, another employee of the University, availed a loan from the Kerala State Financial Enterprises. There was default in repayment of the loan. Steps were taken against the sureties viz., the petitioner and the 5th respondent. Notice was issued to the 4th respondent principal debtor. According to the petitioner, by attachment of his salary an amount of Rs.54,000/- has been recovered from the petitioner. He complains that no steps are taken as against the 5th respondent, who is not only an employee, but also the husband of the principal debtor.

2. In my view, if the liability of the principal debtor and sureties is co-terminus, then it may not be possible for the petitioner to get himself exonerated from the liability. But nevertheless, if it is possible to recover the amount due from the assets and the person of the principal debtor, an effort must be taken to do so.

3. In the result, the writ petition is disposed of in the following terms:

(a) The 2nd respondent shall issue a notice to the petitioner and respondents 4 and 5 requiring them to appear before him. Then, in the presence of all of them, the 2nd respondent shall draw up a proceedings indicating the mode of repayment of the balance amount due.

(b) Such orders/proceedings shall be drawn within six weeks from the date of receipt of a copy of this judgment.

(c) The 2nd respondent shall ascertain the possibility of recovering the amount due from the personal assets of the 4th respondent and if he is of the view that it is not possible to do so, then the reasons must be indicated in the proceedings to be drawn by him as indicated above.

Pending such orders, attachment of the salary of the petitioner shall be kept in abeyance.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge